

COOLEY GODWARD KRONISH LLP
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Attorneys for Third Party Plaintiff, Levi Strauss & Co.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Banco Popular Dominicano, C. Por A., :

Plaintiff and :

Counter-Claim Defendant, :

vs. :

Levi Strauss & Co., :

Defendant and : INDEX No. No. 07 Civ. 6443 (LTS) (THK)

Third Party Plaintiff, :

vs. : **AFFIDAVIT OF FACTS UPON**

: **APPLICATION FOR CLERK'S ENTRY**

: **OF DEFAULT AGAINST APPAREL**

: **MACHINERY & SUPPLY CO.**

Interamericana Apparel Company, Inc.; :

Interamericana Products International, S.A.; :

QST Dominicana LLC; US Paper & Chemical; :

Apparel Machinery & Supply Co.; YKK Snap :

Fasteners America, Inc.; Southern Textile :

Dominicana, Inc.; Industria Cartonera :

Dominicana, S.A. (Smurfit); The Graphic Label :

Group Dominicana, Inc.; and Tag-It Pacific, :

Inc., :

Third Party Defendants.

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Gregory G. Plotko, being duly sworn, deposes and says:

1. I am an attorney admitted to practice before this court and an associate with Cooley Godward Kronish LLP, counsel to the defendant and third party plaintiff, Levi

Strauss & Co. ("LS&CO."). LS&CO. is prosecuting a third party complaint in interpleader (the "Interpleader Action") against Apparel Machinery & Supply Co. (the "Third Party Defendant").

2. I make this affidavit in support of my application for entry of default pursuant to Rule 55 of the Federal Rules of Civil Procedure, made applicable in the instant proceeding by Rules 55.1 and 55.2 of the Local Rules for the Southern District of New York.

3. The Interpleader Action was brought by LS&CO. in response to an action filed by plaintiff Banco Popular Dominicano, C. Por A. ("Banco") for funds owed to Banco by Interamericana Apparel Company, Inc. and/or Interamericana Products International, S.A. (collectively, "Interamericana") to which LS&CO. admittedly owes \$2,325,132.27 (the "Interpleader Funds").

4. LS&CO. commenced the Interpleader Action by filing a third party complaint in interpleader on August 27, 2007 against, among others, the Third Party Defendant (the "Third Party Complaint"). [DOCKET NO.10]

5. LS&CO. properly served a true copy of its summons and notice of pre-trial conference ("Summons") and Third Party Complaint upon the Third Party Defendant by leaving a copy of the Summons with the Third Party Defendant's manager Cheryl Bacharach at the Third Party Defendant's principal place of business in Philadelphia, Pennsylvania on August 29, 2007. The Summons indicated that the Third Party Defendant was to submit a motion or answer to the Third Party Complaint by September 18, 2007.

6. An affidavit evidencing that service was properly made was filed on September 13, 2007. [DOCKET NO. 16]

7. The time for the Third Party Defendant to appear, plead or otherwise defend the allegations set forth in the Third Party Complaint has expired.

8. The Third Party Defendant has failed to appear, plead or otherwise defend the allegations contained in the Third Party Complaint.

9. The Third Party Defendant's time to appear, plead or otherwise defend the allegations set forth in the Complaint has not been extended.


10. The Third Party Defendant is not an infant or an incompetent person.

11. The Third Party Defendant is not currently in the military service.

12. LS&CO. will not cause the Third Party Defendant to be noticed of entry of this default pursuant to Rule 55(b) of the Federal Rules of Civil Procedure, as the Third Party Defendant has failed to appear.

Dated: New York, New York
November 29, 2007


COOLEY GODWARD KRONISH LLP

By: 
Gregory G. Plotko (GP 9234)
Ronald R. Sussman (RS 0641)
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Attorneys for Defendant and Third Party Plaintiff,
Levi Strauss & Co.

Sworn to before me

This 29th day of November, 2007.


Notary Public

SUZANNE G. SIC
Notary Public, State of New York
No. 41-5001710
Qualified in Queens County
Commission Expires November 29, 20 10